

R E M A R K S

The office action of September 2, 2004 has been reviewed and its contents carefully noted. Reconsideration of this case, as amended, is requested. Claims 1-5, 11-19, and 25-30 remain in this case, claims 6-10, and 20-24 being cancelled, and claims 1-5, 11-19, and 25-30 being amended by this response.

The amendments to the claims were made to clarify the invention. No new matter was added.

In addition, the Applicant has added a Reference to Related Applications section, which lists Pending Application Serial Number 09/805,235. The two applications, which were filed on the same day, are related.

Restriction Requirement

The Examiner has made a restriction requirement and has identified two groups as follows:

Group I - recited in claims 1-14, drawn to a computer software program and method, classified in class 709, subclass 228.

Group II - recited in claims 15-30, drawn to a computer software program that modifies a client-side trading system, classified in class 709, subclasses 203 and 246.

The Applicant hereby elects Group I, recited in claims 1-5 and 11-14. The requirements for restriction and election as best understood are respectfully traversed.

The MPEP states the following with regard to stating a prima facie case of restriction between patentably distinct inventions:

“There are two criteria for a proper requirement for restriction between patentably distinct inventions:

1) The inventions must be independent (see MPEP 802.01, 806.04, 808.01) **or distinct as claimed** (see MPEP 806.05-806.05(i)); and

2) There must be a **serious burden on the examiner** if restriction is not required (see MPEP 803.02, 806.04(a) - 806.04(j), 808.01(a) and 808.02).

GUIDELINES

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the requirement in most cases. **Where plural inventions are capable of being viewed as related in two ways, both applicable criteria for distinctness must be demonstrated to support a restriction requirement...**For purposes of the initial requirement a serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP 808.02.” (MPEP 803)

As amended, all of the claims recite related inventions. This does not mean that there are not “distinct” inventions as defined in the MPEP. Distinct inventions do not create a burden on the Examiner that is sufficient to justify a restriction requirement without a showing of the need for separate searches.

All of the inventions would be searched within the same classes and subclasses. Even if some of the inventions would be classified separately, a thorough search of the prior art for any one of the inventions would include the classes and subclasses of the other inventions.

The Applicant requests that the restriction requirement be withdrawn. If the Examiner disagrees, or believes for any other reason that direct contact with Applicant’s agent would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

Conclusion

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants' attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:

Deming

By: 

Meghan Van Leeuwen, Reg. No. 45,612

Agent for Applicant

BROWN & MICHAELS, P.C.

400 M&T Bank Building - 118 N. Tioga St.

Ithaca, NY 14850

(607) 256-2000 • (607) 256-3628 (fax)

e-mail: docket@bpmlegal.com

Dated: 9/30/09